

ANIMAL CONTROL COMMISSION ANNUAL REPORT

CITY OF SOUTH BEND, INDIANA

Filed in Clerk's Office
FEB 29 2016
KAREEMAH FOWLER
CITY CLERK, SOUTH BEND, IN

TO: SOUTH BEND COMMON COUNCIL and MAYOR PETE BUTTIGIEG

The City of South Bend's Animal Control Commission, consisting of Dr. Betsy Culp, Ernest Galos, Rebecca Kaiser, Barbara Leavell and Emily Sexton, issues its annual report to the South Bend Common Council and Mayor Pete Buttigieg pursuant to Section 5-97(4) of the City of South Bend's Animal Control Ordinance. The Animal Control Commission began its activities in earnest during the 2015 calendar year. As outlined in the Animal Control Ordinance, the Animal Control Commission met monthly receiving reports from the Shelter Manager about the shelter's operation and its proposed activities. The Animal Control Commission has set its monthly meetings for the first Tuesday of each month at 6:30 p.m. Animal Control Commission Secretary Emily Sexton has maintained the minutes of these meetings which she maintains in the City Clerk's office.

In addition to the reports of the Shelter Manager or his subordinates, the Animal Control Commission discussed throughout the year various issues regarding animal welfare in the community. Those primarily concerned outreach efforts publicizing the shelter and the services it provides to the community and fundraising projects designed to aid the shelter.

The most significant activity of the Animal Control Commission was the hearing process after the Commission was notified of a potentially dangerous animal or habitual animal offender by the Shelter Manager. The Animal Control Commission held its first hearing on May 5, 2015 and has held a total of six (6) hearings to date. The decisions in those cases were all unanimous and are included as attachments to this report. In summary, three (3) of the cases resulted in a determination of a potentially dangerous animal, two (2) cases resulted in a determination of a vicious animal and one (1) case resulted in a determination of a habitual animal violator with a ban on animal ownership. One of the potentially dangerous animal cases also included a habitual animal violator determination with a ban on animal ownership. Three of the cases involved an animal that escaped its owner's property and killed another dog. Two cases involved an animal that escaped its owner's property and either attacked a person resulting in a bite or threatened persons, including animal control officers. Only one of the cases involved the neglect of an animal.

While the fact that the Commission only dealt with one (1) neglect case would appear to be gratifying, the Commission is not blind to the fact that serious acts of neglect exist in the community. The limited resources of South Bend Animal Care and Control, however, clearly limit the effectiveness of the animal control agency. Consequently, the recommendations outlined below advise an increase in the resources available to South Bend Animal Care and Control.

RECOMMENDATIONS

The Animal Control Commission believes it is essential that more resources be devoted to South Bend Animal Care and Control in order that the goals of the revised animal control ordinance be achieved. Increases in the number of staff members would greatly enhance the agency's ability to ease the unnecessary suffering of the creatures for which the citizens of South Bend are responsible and create an orderly and humane environment in the city. Such an increase almost certainly involves additional sums from the City's budget. Realizing that every department of the City wants and/or needs additional resources, the Commission, nevertheless, believes additional resources in this area are vital as a community is measured by how it treats its most helpless.

Additional resources would most likely aid in the second of the Commission's recommendations, a focus on backyard breeders. The Animal Control Ordinance provides for restrictions on the careless breeding of animals in the City. A failure to enforce the Ordinance adequately defeats the good work of the Shelter in caring for and placing animals on its own and with its partners, including C.A.R.E. of South Bend, by inundating the community with surplus animals. Those animals and their over-bred parents are also far more likely to suffer neglect and abuse. The Common Council and Administration should explore any additions to the Ordinance the Shelter Manager recommends to aid in enforcement.

The remainder of the Animal Control Commission's recommendations revolve around the technical operation of hearings and their aftermath. The Animal Control Ordinance requires strict deadlines for scheduling hearings and filing appeals of the Commission's decisions. Currently, a hearing before the Animal Control Commission must take place within ten (10) days of the Shelter Manager's notification. At that point a hearing date has to be chosen at which a quorum of the Commission members can meet and notice sent to the animal owner. The Animal Control Commission is concerned that the persons involved do not have adequate time to prepare a case in their defense, especially since a means of service is certified mail. The recent transfer of certain U.S. Postal Service duties out of South Bend have created delays in mail delivery that shorten the time in which animal owners receive notice. Similarly, an appeal of an Animal Control Commission decision must be filed by the animal owner within ten (10) days of the decision. Such an appeal involves a filing in the St. Joseph Circuit Court and most likely would require the services of an attorney.

The Commission is further concerned because it has no budget with which to pay for certified mailings. The Department of Code Enforcement under which South Bend Animal Care and Control operates should pay for the certified mailings if a budget is not allotted to the Commission for such mailings or, at the least, some means of reimbursement to the Commission members for the payment of postal charges. Additionally, the Commission is concerned with the physical delivery of notices and decisions by South Bend Animal Care and Control. The Commission relies on certified mailings for proof of service because delivery by South Bend Animal Care and Control has been very slow which may cause difficulties in cases in the future. Ideally, the Shelter Manager or his staff would immediately deliver the notices and decisions the day the Commission issues them to ensure adequate time to prepare for the hearing or file an appeal. That has not occurred, significantly reducing the number of days to respond.

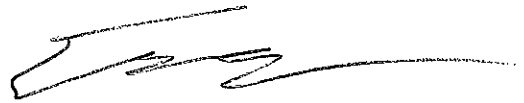
The Commission believes personal delivery is faster and provides proof of service in a timely manner. With the short time frames under the current ordinance, any other means of service would often not be able to provide proof of service until after the hearing or appeal deadline.

The Animal Control Commission is requesting that Shelter Manager issue a follow-up report to the Commission within 45-60 days of the Commission issuing a decision in a hearing. The Commission can issue a decision, but South Bend Animal Care and Control enforces the decision. The Commission is concerned that its decisions are not being delivered in a timely manner and question whether they are enforced in a prompt manner. A report to the Commission of the enforcement of its decisions would greatly alleviate that concern.

Finally, the Animal Control Commission is in need of some guidance as to violations of the previous animal control ordinance. Habitual animal offenders are those persons who have three (3) or more violations of animal care regulations within any two (2) year period. It is a question whether violations of the old ordinance count toward the three (3) violations. The issue may become moot soon as the current ordinance ages, but remains a potential area of concern.

The South Bend Animal Control Commission respectfully submits its report.

BY:



Ernest P. Galos
President, Animal Control Commission
for the City of South Bend

ISSUED THE 29TH DAY OF FEBRUARY, 2016

DEPARTMENT OF CODE ENFORCEMENT

CITY OF SOUTH BEND, INDIANA

CITY OF SOUTH BEND)	
)	
	)	DETERMINATION OF POTENTIALLY
	)	DANGEROUS ANIMAL
)	
v.	)	ORDER ISSUED: <u>06/04/2015</u>
)	
CIRILO RANGEL	)	CASE NO.
)	

TO: CIRILO RANGEL
1215 Napier Street
South Bend, IN 46601

This cause came on to be heard on the 5th day of May 2015 on the City of South Bend's Division of Animal Care and Control's request for a determination that a canine Siberian Husky named Canela owned by Cirilo Rangel is a potentially dangerous animal under the South Bend Municipal Code. Evidence was presented by Harriet Parks, South Bend Animal Care and Control Officer Todd Howard and Gustavo Rangel. After reviewing the evidence, the Animal Control Commission has made a unanimous determination that the Siberian Husky named Canela is a potentially dangerous animal based upon the following:

FACTS

The evidence was uncontroverted that on April 19, 2015 Harriet Parks of 1226 Thomas Street, South Bend, Indiana went out to her side yard with her Chihuahua, We-we. While they were in the yard, the Siberian Husky, Canela, ran into her yard, grabbed We-we and ran off with the Chihuahua. Canela shook We-we and disemboweled him which resulted in We-we's death. Canela attempted to return to the small dog after his body had been retrieved by Ms. Parks but did not act aggressively towards her.

South Bend Police were called as well as South Bend Animal Care and Control. Upon Animal Control Officer Todd Howard's arrival, Canela had been restrained on a leash. Animal Control Officer Howard loaded Canela into his van for transport to Animal Care and Control without incident and with the dog showing no aggression. At the facility, it was observed that Canela showed no aggression to humans or the other animals in the facility. She was released back to her owner the next day. The City of South Bend specifically requested that Canela be determined to be potentially dangerous rather than vicious as defined by the South Bend Municipal Code.

Gustavo Rangel testified that Canela was not aggressive. He indicated that the dog is kept on their property at 1215 Napier Street, South Bend, Indiana behind a six-

foot privacy fence. Canela also wore a shock collar but the batteries were not functioning at the time.

DECISION

The Animal Control Commission finds that the evidence provided by the City of South Bend is compelling. The City, however, requested that rather than determine that Canela is a vicious animal defined in Chapter 5 of the South Bend Municipal Code, that it make the determination that Canela is potentially dangerous, a lesser included designation. Based upon that request and the evidence that despite the fact that Canela killed a domestic pet, she did not show any aggression to humans during the attack and did not show aggression afterwards to humans or other animals, the designation of potentially dangerous as defined in Chapter 5 of the South Bend Municipal Code is appropriate.

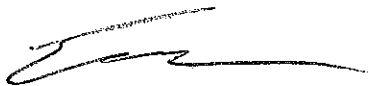
The evidence was uncontroverted that Canela did enter Harriet Parks' property and killed her dog. Canela's behavior, however appears to be an isolated and aberrant incident. Nevertheless, it is determined that Canela is potentially dangerous. Consequently, the restrictions outlined in Section 5-38(c) of the South Bend Municipal Code are ordered to be implemented. Those restrictions are:

A potentially dangerous animal, while on the owner/guardian's property, shall , at all times, be kept indoors, or in a secured enclosure that is enclosed on all five (5) sides and is anchored to the ground from which the animal cannot escape, and into which children cannot trespass. A potentially dangerous animal may be off the owner/guardian's premises only if it is muzzled and restrained by a leash, of no more than six (6) feet in length, and if it is under the control of a responsible adult." Sub – paragraphs one through eight (1-8) of Section 5-38(d) outline said enclosure's requirements. Pursuant to Section 5-38(f)(5) an owner/guardian may submit one (1) request for reconsideration per year to the Animal Control Commission to have the designation of potentially dangerous removed from his or her animal.

Pursuant to Section 5-38(a)(7)(d) this decision is subject to appeal to the Circuit Court of St. Joseph County, Indiana. The owner/guardian of the animal must do so within ten (10) calendar days, or they will waive their right to the appeal, and all decision will be considered final. The Owner/guardian must also notify the Animal Control Commission of their decision to appeal in writing, which will then be forwarded to the Law Department for the City of South Bend.

ISSUED THE 4tht DAY OF JUNE, 2015

BY:


Ernest P. Galos
President, Animal Control Commission
for the City of South Bend

DEPARTMENT OF CODE ENFORCEMENT

CITY OF SOUTH BEND, INDIANA

CITY OF SOUTH BEND)	
)	
	)	DETERMINATION OF
	)	HABITUAL ANIMAL OFFENDER
v.	)	ORDER ISSUED: <u>06/16/2015</u>
)	
NERLENE TAYLOR	)	CASE NO. 2015-06-03
)	

TO: NERLENE TAYLOR
620 Howard Street
South Bend, IN 46617

This cause came on to be heard on the 9th day of June, 2015 on the City of South Bend's Division of Animal Care and Control's request for a determination that Nerlene Taylor is an habitual animal offender under the South Bend Municipal Code. Proof of service of notice of the hearing on Nerlene Taylor is noted in the record. Nerlene Taylor did not appear at the hearing.

Evidence was presented by South Bend Animal Care and Control Officer Singleton. After reviewing the evidence, the Animal Control Commission has made a unanimous determination that Nerlene Taylor is an Habitual Animal Offender and is prohibited from animal ownership for a period of five (5) years, based upon the following:

FACTS

South Bend Animal Care and Control had numerous contacts with Nerlene Taylor regarding her canine Rottweiler mix named Ganga. Animal Welfare Alert warnings were issued to Ms. Taylor on November 17, 2014 for Ganga running at large, needing veterinary care and being unlicensed. Warnings were issued February 15, 2015, February 25, 2015, February 27, 2015, April 13, 2015, April 28, 2015 and June 4, 2015 involving running loose, inadequate food, water or shelter, being unlicensed, improper disposal of excrement, neglecting an animal, improper tethering and being unvaccinated. Five (5) official citations for violating the South Bend Municipal Code were issued on: 1. February 27, 2015 for failing to restrain an animal; 2. February 27, 2015 for failing to license Ganga; 3. April 29, 2015 for failing to properly restrain Ganga; 4. May 14, 2015 for harboring an unvaccinated animal; and, 5. May 14, 2015 for improper restraint of an animal. None of the fines levied have apparently been paid.

DECISION

The Animal Control Commission finds that the evidence provided by the City of

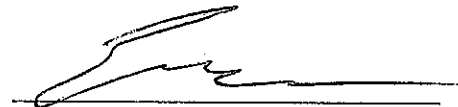
South Bend's Division of Animal Care and Control is compelling. The evidence was uncontroverted that Nerlene Taylor was officially cited for five (5) violations of the animal care and control regulations of the South Bend Municipal Code. All of the citations occurred within a two (2) year period. They, in fact, occurred within six (6) months of each other. Under South Bend Municipal Code Section 5-43(a), It shall be unlawful to be an habitual animal offender. For the purposes of this section, an habitual animal offender shall mean any animal owner or harborer, who within any two-year period is cited with three (3) or more violations of animal care regulations of this chapter. The controlling date is the date of each animal ordinance violation. Nerlene Taylor is an habitual animal offender. Pursuant to South Bend Municipal Code Section 5-43(c), if found to be an habitual animal offender, the Animal Control Commission may order a limit, restriction, or prohibition against animal ownership for a minimum of five (5) years or more as determined by the Animal Control Commission based on the totality of the circumstances of the violations observed.

Based upon the five (5) citations, repeated warnings and the failure of the Nerlene Taylor to properly restrain (either by allowing him to run loose or to improperly restrain him while caged), vaccinate and license Ganga, the Animal Control Commission orders that Nerlene Taylor is prohibited from owning an animal for a period of five (5) years.

Pursuant to Section 5-38(a)(7)(d) this decision is subject to appeal to the Circuit Court of St. Joseph County, Indiana. The owner/guardians of the animal must do so within ten (10) calendar days of the decision, or they will waive their right to the appeal, and all decision will be considered final. The Owner/guardians must also notify the Animal Control Commission of their decision to appeal in writing, which will then be forwarded to the Law Department for the City of South Bend.

ISSUED THE 16th DAY OF JUNE, 2015

BY:



Ernest P. Galos
President, Animal Control Commission
for the City of South Bend

DEPARTMENT OF CODE ENFORCEMENT

CITY OF SOUTH BEND, INDIANA

CITY OF SOUTH BEND)	
)	
	)	DETEMINATION OF POTENTIALLY
	)	DANGEROUS ANIMAL and
	)	HABITUAL ANIMAL OFFENDER
v.	)	ORDER ISSUED: <u>08/05/2015</u>
)	
NATASHA and DAVID OBERLIN	)	CASE NO. 2015-06-02
)	

TO: NATASHA and DAVID OBERLIN
132 E. Victoria Street
South Bend, IN 46614

This cause came on to be heard on the 9th day of June, 2015 on the City of South Bend's Division of Animal Care and Control's request for a determination that a canine terrier/pit-bull mix named Yoshi owned by Natasha and David Oberlin is a potentially dangerous animal under the South Bend Municipal Code and that Natasha and David Oberlin are habitual offenders under the South Bend Municipal Code. Proof of service of notice of the hearing on the Oberlins is noted in the record. Natasha Oberlin did not appear at the hearing. David Oberlin appeared at the hearing but left the hearing at the start of the hearing declaring the Animal Control Commission could do what it wanted.

The Animal Control Commission determines that David Oberlin also effectively failed to appear. Pursuant to section 5-38(a)(6), if the owner/guardian of the animal fails to appear at the hearing, the Animal Control Commission may find the owner/guardian in default, and all ownership rights to the animal shall be assumed waived. The Animal Control Commission unanimously finds that Natasha and David Oberlin are in default and have waived their ownership rights to the terrier/pit-bull Yoshi.

Evidence was nevertheless presented by South Bend Animal Care and Control Officer Todd Howard. After reviewing the evidence, the Animal Control Commission has made a unanimous determination that the terrier/pit-bull named Yoshi is a potentially dangerous animal. The Commission also unanimously determines that Natasha and David Oberlin are Habitual Animal Offenders and are prohibited from animal ownership for a period of seven (7) years, based upon the following:

FACTS

The evidence was uncontroverted that on February 7, 2014 South Bend Animal Care and Control was called regarding a loose dog acting aggressively toward people. Animal Control Officer Howard arrived on the scene and was charged by Yoshi, the terrier/pit-bull owned by David and Natasha Oberlin. Yoshi chased Mr. Howard back

into his vehicle, clawed at his door and attempted to attack him before being ultimately captured. Again, on May 29, 2015, Yoshi was running loose, prompting a call to South Bend Animal Care and Control. As in the earlier incident, Yoshi attempted to attack the Animal Control Officer, chasing him back into his vehicle. Animal Control Officers were forced to sedate Yoshi in order to impound him.

South Bend Animal Care and Control had numerous contacts with the Oberlins regarding Yoshi. Warning were issued to the Oberlins on February 7, 2014, December 26, 2014, May 27, 2015 and May 29, 2015 because of Yoshi running at large, being unlicensed and unvaccinated and improperly restrained. Three (3) official citations for violating the South Bend Municipal Code were issued on: 1. February 7, 2014 for failing to obtain a current dangerous dog license; 2. February 7, 2014 for Yoshi running at large; and, 3. June 4, 2015 for Yoshi running at large on May 29, 2015. None of the fines levied have apparently been paid.

DECISION

The Animal Control Commission finds that the evidence provided by the City of South Bend's Division of Animal Care and Control is compelling. The designation of potentially dangerous as defined in South Bend Municipal Code Chapter 5-2(ddd)(1): Any animal, when unprovoked, on two (2) separate occasions engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the animal are off of property owned, lawfully occupied or controlled by the owner/guardian or keeper of the animal as documented by and enforcement authority, is appropriate.

The evidence was uncontroverted that Yoshi did attempt to attack South Bend Animal Care and Control Officers on two (2) separate occasions while he was running loose, requiring them to take defensive action to prevent bodily injury. It is determined that Yoshi is potentially dangerous.

The evidence was also uncontroverted that Natasha and David Oberlin were officially cited for three (3) violations of the animal care and control regulations of the South Bend Municipal Code. The two (2) citations issued on February 7, 2014 and the citation issued on June 4, 2015 occurred within a two (2) year period. Under South Bend Municipal Code Section 5-43(a), It shall be unlawful to be an habitual animal offender. For the purposes of this section, an habitual animal offender shall mean any animal owner or harbinger, who within any two-year period is cited with three (3) or more violations of animal care regulations of this chapter. The controlling date is the date of each animal ordinance violation. Natasha and David Oberlin are habitual animal offenders. Pursuant to South Bend Municipal Code Section 5-43(c), if found to be a habitual animal offender, the Animal Control Commission may order a limit, restriction, or prohibition against animal ownership for a minimum of five (5) years or more as determined by the Animal Control Commission based on the totality of the circumstances of the violations observed.

Based upon the three (3) citations, repeated warnings and the failure of the Oberlins to properly restrain, vaccinate and license Yoshi, the Animal Control Commission orders that Natasha and David Oberlin are prohibited from owning an

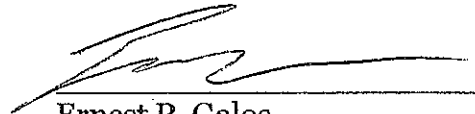
animal for a period of seven (7) years.

As indicated above, Natasha Oberlin failed to appear at the hearing of this cause after due notice. David Oberlin walked out of the hearing at the start of the proceeding while declaring the Commission could do what it wanted. The Animal Control Commission considers that to constitute a failure to appear. Pursuant to South Bend Municipal Code Section 5-38(a)(6) the Oberlins' ownership rights as to Yoshi were waived and he should be impounded.

Pursuant to Section 5-38(a)(7)(d) this decision is subject to appeal to the Circuit Court of St. Joseph County, Indiana. The owner/guardians of the animal must do so within ten (10) calendar days of the decision, or they will waive their right to the appeal, and all decisions will be considered final. The Owner/guardians must also notify the Animal Control Commission of their decision to appeal in writing, which will then be forwarded to the Law Department for the City of South Bend.

ISSUED THE 5th DAY OF AUGUST, 2015

BY:



Ernest P. Galos
President, Animal Control Commission
for the City of South Bend

DEPARTMENT OF CODE ENFORCEMENT

CITY OF SOUTH BEND, INDIANA

CITY OF SOUTH BEND)	
)	
	)	DETEMINATION OF VICIOUS
	)	ANIMAL
)	
v.	)	ORDER ISSUED: <u>09/17/2015</u>
)	
KIMBERLY KRAKOWSKI	)	CASE NO. 2015-08-01
)	

TO: KIMBERLY KRAKOWSKI
820 S. 29th Street
South Bend, IN 46615

This cause came on to be heard on the 1st day of September, 2015 on the City of South Bend's Division of Animal Care and Control's request for a determination that a canine Siberian Husky named Caer owned by Kimberly Krakowski is a vicious animal under the South Bend Municipal Code. Evidence was presented by South Bend Animal Care and Control Officer April Michaels, Latoshia Toplin, Kimberly Krakowski, Christopher Rkunik and Lisa Kruszewski. After reviewing the evidence, the Animal Control Commission has made a unanimous determination that the Siberian Husky named Caer is a vicious animal based upon the following:

FACTS

The evidence was uncontroverted that on July 16, 2015 Latoshia Toplin of 837 S. 29th Street, South Bend, Indiana put her Chihuahua, Pebbles, on a chain on her front porch. While the Chihuahua was in its front yard, the Siberian Husky, Caer, entered Ms. Toplin's yard, grabbed Pebbles and ran off with the Chihuahua after pulling it out of its collar. Caer bit and shook Pebbles which resulted in Pebbles' death. Caer took Pebbles back to its home at 820 S. 29th Street and refused to give up the Chihuahua's body for a period of time.

South Bend Police were called as well as South Bend Animal Care and Control. Upon Animal Control Officer April Michaels' arrival, Caer had released the body of Pebbles to a police officer who was also assisted by Caer's owner, Kimberly Krakowski. Animal Control Officer Michaels noted that Caer did not show aggression toward her. The City of South Bend's Division of Animal Care and Control specifically requested that Caer be determined to be vicious as defined by the South Bend Municipal Code.

Kimberly Krakowski testified that Caer was not aggressive. She indicated that the dog is kept on her property at 820 S. 29th Street, South Bend, Indiana behind a four-foot chain link fence topped with two feet of lattice work and provided photographs

delineated as Exhibits "A", "B" and "C". That enclosure is wholly inadequate as both Ms. Toplin and Ms. Krakowski had indicated Caer had previously escaped from its yard.

In addition to Ms. Krakowski's assertion that Caer is not aggressive, she provided photographic evidence of Caer interacting with her family, including children and other animals. Witnesses Christopher Rkunik and Lisa Kruszewski also provided testimony that Caer was not aggressive, although it was noted that she played rough on occasion.

DECISION

The Animal Control Commission finds that the evidence provided by the City of South Bend's Division of Animal Care and Control is compelling. The City requested that the Commission determine that Caer is a vicious animal as defined in Chapter 5 of the South Bend Municipal Code. The designation of vicious animal as defined in Section 5-2(dddd)(1) of the South Bend Municipal Code is appropriate.

The evidence was uncontroverted that Caer did enter Latoshia Toplin's property and, in an unprovoked and aggressive manner, killed her dog. Despite the fact that the Animal Control Commission declares Caer to be a vicious animal, it is determined that Caer shall not be euthanized. Caer did not show aggression toward the Animal Care and Control Officer at the time of the incident and sufficient evidence was presented regarding her past behavior that she is not a significant threat to the public health, safety and welfare when properly restrained and supervised. Consequently, the restrictions outlined in Section 5-38(d) of the South Bend Municipal Code are ordered to be implemented. Those restrictions are:

An animal that has been declared vicious may not be kept on a porch, patio or in any part of a house or structure that would allow the animal to exit such building on its own volition, except to a secured location. When outside, all vicious animals must be confined in a secure enclosure that is enclosed on all five (5) sides and is anchored to the ground from which the animal cannot escape, except when necessary to obtain veterinary care, or in cases of emergency where the situation would endanger and/or threaten the health and welfare of the animal.

- (1) All enclosures must be adequately lighted and ventilated and kept in a clean and sanitary condition.
- (2) The enclosure shall have secure sides and a secure top and bottom to prevent the animal from escaping over, under, or through the structure, and shall be anchored to the ground to prevent escape.
- (3) The enclosure shall be kept locked at all times to prevent unintentional opening.
- (4) The enclosure shall include suitable shelter and protection from the elements and shall provide adequate exercise room, light, ventilation, and sanitation.
- (5) The enclosure shall be inspected and approved by the City of South Bend Division of Animal Care and Control prior to its usage for confinement.
- (6) Whenever necessity requires a vicious animal to be outside of the enclosure, the animal shall be securely muzzled and restrained by a leash not exceeding three (3) feet in length, with handgrip, and shall be under the direct control and supervision of the owner/guardian of the animal.
- (7) That the owner/guardian shall maintain a liability insurance policy of no less than three hundred thousand dollars (\$300,000.00) for the animal.
- (8) The animal must also be identifiable via a microchip implanted into the skin of

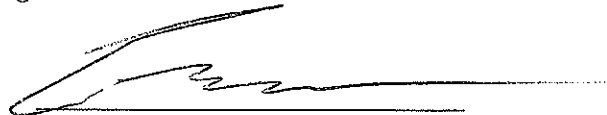
the animal, and such microchip number must be provided to the Division of Animal Care and Control.

Pursuant to Section 5-38(f)(5) an owner/guardian may submit one (1) request for reconsideration per year to the Animal Control Commission to have the designation of vicious removed from his or her animal.

Pursuant to Section 5-38(a)(7)(d) this decision is subject to appeal to the Circuit Court of St. Joseph County, Indiana. The owner/guardian of the animal must do so within ten (10) calendar days, or they will waive their right to the appeal, and all decisions will be considered final. The Owner/guardian must also notify the Animal Control Commission of their decision to appeal in writing, which will then be forwarded to the Law Department for the City of South Bend.

ISSUED THE 17th DAY OF SEPTEMBER, 2015

BY:



Ernest P. Galos
President, Animal Control Commission
for the City of South Bend

DEPARTMENT OF CODE ENFORCEMENT

CITY OF SOUTH BEND, INDIANA

CITY OF SOUTH BEND)	
)	
	)	DETERMINATION OF POTENTIALLY
	)	DANGEROUS ANIMAL
)	
v.	)	ORDER ISSUED: <u>01/19/2016</u>
)	
AMY JONES	)	CASE NO. 2015-12-01
)	

TO: AMY JONES
1425 E. Fox Street
South Bend, IN 46613

This cause came on to be heard on the 5th day of January, 2016 on the City of South Bend's Division of Animal Care and Control's request for a determination that two (2) canine terriers named Mojo and Clarabell owned by Amy Jones are vicious animals under the South Bend Municipal Code. Evidence was presented by Rebecca Witt, South Bend Animal Care and Control Officer Randy Highland and Amy Jones. After reviewing the evidence, the Animal Control Commission has made a unanimous determination that the terriers named Mojo and Clarabell are the lesser denomination of potentially dangerous animals based upon the following:

FACTS

The evidence was uncontroverted that on September 23, 2015 Rebecca J. Witt of 1433 E. Fox Street, South Bend, Indiana was lawfully in her yard when she observed a large brown terrier canine, now identified as Mojo, in the alley. Mojo ran to her, biting at her hands. Another canine, a white terrier now identified as Clarabell, also appeared and began biting at Ms. Witt's hands. While the dogs were attacking her on her right and left, Ms. Witt fell to the ground. The dogs then began biting at her legs. Ms. Witt was transported to the hospital by ambulance and was released that day without need of sutures for her injuries.

South Bend Police were called as well as South Bend Animal Care and Control. Upon Animal Control Officer Randy Highland's arrival, Mojo was on the porch of his own home at 1425 E. Fox Street. Mojo ran around the house and apparently found his way back inside the home. The officer observed a broken window which the dogs may have used to exit the home. Both dogs were placed on in-home quarantine. Neither dog appeared to be licensed at the time.

Amy Jones testified that the dogs were not aggressive and that there had been no prior incidents involving her dogs. Ms. Jones testified that her dogs were not licensed because she could not provide a record of their vaccinations to South Bend Animal Care

and Control. She further indicated that the dogs were properly vaccinated, but that her veterinarian had died and she could not access the information. She did submit proof of vaccinations into evidence.

DECISION

The Animal Control Commission finds that the evidence provided by the City of South Bend's Division of Animal Care and Control is compelling with regard to the fact that the dogs, Mojo and Clarabell, owned by Amy Jones, when unprovoked, bit Rebecca J. Witt, causing her injury. The City, however, requested that the Commission determine that Mojo and Clarabell are vicious animals as defined in Chapter 5 of the South Bend Municipal Code. In order to do so, the Commission must determine that Ms. Witt suffered severe injuries. Severe injury is defined in Section 5-2(qqq) of the South Bend Municipal Code. Fortunately, Ms. Witt did not suffer broken bones or muscle tears resulting in disfigurement or requiring multiple sutures or corrective surgery. The Commission does not discount the pain and fear suffered by Ms. Witt, but believes the evidence compels it to make the determination that Mojo and Clarabell are potentially dangerous, a lesser included designation, as defined in Chapter 5 of the South Bend Municipal Code.

The restrictions outlined in Section 5-38(c) of the South Bend Municipal Code are ordered to be implemented. Those restrictions are:

A potentially dangerous animal, while on the owner/guardian's property, shall, at all times, be kept indoors, or in a secured enclosure that is enclosed on all five (5) sides and is anchored to the ground from which the animal cannot escape, and into which children cannot trespass. A potentially dangerous animal may be off the owner/guardian's premises only if it is muzzled and restrained by a leash, of no more than six (6) feet in length, and if it is under the control of a responsible adult." Sub – paragraphs one through eight (1-8) of Section 5-38(d) outline said enclosure's requirements.

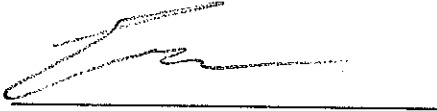
In addition, it is ordered that the dogs, Mojo and Clarabell, be altered pursuant to Section 5-38(f) within fourteen (14) days unless one of the exceptions listed applies.

Pursuant to Section 5-38(f)(5) an owner/guardian may submit one (1) request for reconsideration per year to the Animal Control Commission to have the designation of potentially dangerous removed from his or her animal.

Pursuant to Section 5-38(a)(7)(d) this decision is subject to appeal to the Circuit Court of St. Joseph County, Indiana. The owner/guardian of the animal must do so within ten (10) calendar days, or they will waive their right to the appeal, and all decision will be considered final. The Owner/guardian must also notify the Animal Control Commission of their decision to appeal in writing, which will then be forwarded to the Law Department for the City of South Bend.

ISSUED THE 19th DAY OF JANUARY, 2016

BY:



Ernest P. Galos
President, Animal Control Commission
for the City of South Bend

DEPARTMENT OF CODE ENFORCEMENT

CITY OF SOUTH BEND, INDIANA

CITY OF SOUTH BEND)	
)	
	)	DETEMINATION OF VICIOUS
	)	ANIMAL
v.	)	ORDER ISSUED: <u>01/19/2016</u>
)	
JOSELUIS BRISENO	)	CASE NO. 2015-12-02
)	

TO: JOSELUIS BRISENO
2114 S. Lafayette Blvd.
South Bend, IN 46613

This cause came on to be heard on the 5th day of January, 2016 on the City of South Bend's Division of Animal Care and Control's request for a determination that two (2) terrier type canines named Charlie and Princess owned by Joseluis Briseno are vicious animals under the South Bend Municipal Code. Evidence was presented by South Bend Animal Care and Control Officer April Michaels, Sonya Womack, Ronald Womack and Andy Chamorro. After reviewing the evidence, the Animal Control Commission has made a unanimous determination that the canines named Charlie and Princess are vicious animals based upon the following:

FACTS

The evidence was uncontroverted that on December 10, 2015 Sonya Womack of 2206 S. Lafayette Blvd., Apt. B, South Bend, Indiana put her Jack Russell Terrier/Shih Tzu mix dog, named Jack, on a leash in her backyard. While Jack was in its backyard, the white terrier, Charlie and black terrier, Princess, entered Ms. Womack's yard, grabbed Jack, bit and tugged on him which resulted in Jack's death.

South Bend Police were called as well as South Bend Animal Care and Control. By the time of Animal Control Officer April Michaels' arrival, Princess having just delivered a litter of puppies was back in her owner's house. Animal Control Officer Michaels determined that Charlie most likely escaped from his kennel. The City of South Bend's Division of Animal Care and Control specifically requested that Charlie and Princess be determined to be vicious as defined by the South Bend Municipal Code.

Andy Chamorro, the 15 year old step-son of Joseluis Briseno, testified that he came home from school to find that Princess had delivered a litter of puppies. Wanting to clean-up, Andy let Princess out of her cage. She was aggressive due to just having puppies. He also put Charlie in his kennel in order to calm the chaotic situation. That enclosure was inadequate as Charlie escaped, joining Princess, who had run out of the

house.

DECISION

The Animal Control Commission finds that the evidence provided by the City of South Bend's Division of Animal Care and Control is compelling. The City requested that the Commission determine that Charlie and Princess are vicious animals as defined in Chapter 5 of the South Bend Municipal Code. The designation of vicious animal as defined in Section 5-2(dddd)(1) of the South Bend Municipal Code is appropriate.

The evidence was uncontroverted that Charlie and Princess did enter Sonya Womack's property and, in an unprovoked and aggressive manner, killed her dog. Despite the fact that the Animal Control Commission declares Charlie and Princess to be vicious animals, it is determined that they shall not be euthanized. The circumstances of newborn puppies and the attempts of the owner to contain Charlie and Princess on prior occasions are significant. The Commission also recognizes Charlie and Princess' owner's apology to Ms. Womack, aid in having Jack cremated, the licensing of Charlie and Princess, although belatedly, and plans to improve their kennel. It is determined, that Charlie and Princess are not significant threats to the public health, safety and welfare when properly restrained and supervised. Consequently, the restrictions outlined in Section 5-38(d) of the South Bend Municipal Code are ordered to be implemented. Those restrictions are:

An animal that has been declared vicious may not be kept on a porch, patio or in any part of a house or structure that would allow the animal to exit such building on its own volition, except to a secured location. When outside, all vicious animals must be confined in a secure enclosure that is enclosed on all five (5) sides and is anchored to the ground from which the animal cannot escape, except when necessary to obtain veterinary care, or in cases of emergency where the situation would endanger and/or threaten the health and welfare of the animal.

- (1) All enclosures must be adequately lighted and ventilated and kept in a clean and sanitary condition.
- (2) The enclosure shall have secure sides and a secure top and bottom to prevent the animal from escaping over, under, or through the structure, and shall be anchored to the ground to prevent escape.
- (3) The enclosure shall be kept locked at all times to prevent unintentional opening.
- (4) The enclosure shall include suitable shelter and protection from the elements and shall provide adequate exercise room, light, ventilation, and sanitation.
- (5) The enclosure shall be inspected and approved by the City of South Bend Division of Animal Care and Control prior to its usage for confinement.
- (6) Whenever necessity requires a vicious animal to be outside of the enclosure, the animal shall be securely muzzled and restrained by a leash not exceeding three (3) feet in length, with handgrip, and shall be under the direct control and supervision of the owner/guardian of the animal.
- (7) That the owner/guardian shall maintain a liability insurance policy of no less than three hundred thousand dollars (\$300,000.00) for the animal.
- (8) The animal must also be identifiable via a microchip implanted into the skin of the animal, and such microchip number must be provided to the Division of Animal Care and Control.

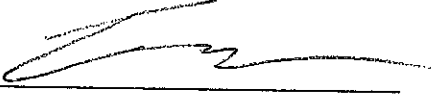
In addition, pursuant to Section 5-38(f), Charlie and Princess shall be altered, unless certified by a veterinarian that the animals cannot reproduce or that such a procedure shall be injurious to the animal's health.

Pursuant to Section 5-38(f)(5) an owner/guardian may submit one (1) request for reconsideration per year to the Animal Control Commission to have the designation of vicious removed from his or her animal.

Pursuant to Section 5-38(a)(7)(d) this decision is subject to appeal to the Circuit Court of St. Joseph County, Indiana. The owner/guardian of the animal must do so within ten (10) calendar days, or they will waive their right to the appeal, and all decisions will be considered final. The Owner/guardian must also notify the Animal Control Commission of their decision to appeal in writing, which will then be forwarded to the Law Department for the City of South Bend.

ISSUED THE 19th DAY OF JANUARY, 2016

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